Remarks

Applicants' Request for Withdrawal of Finality of the Office Action dated August 5, 2009 pursuant to 37 C.F.R. § 1.181 and MPEP 1002.02 (c) was filed on August 14, 2009. However, the Office has maintained the finality pursuant to the Decision dated September 21, 2009. In the interest of moving the prosecution forward and promoting brevity, Applicants hereby amend the claims and present corresponding remarks as indicated herein.

Claims 1 - 20 are pending. Favorable reconsideration is respectfully solicited.

Claims 1 - 20 have been rejected under 35 U.S.C. § 103(a) over Mathur 2003/0229175, hereinafter "*Mathur* '175," in view of Schuster et al. U.S. 5,854,343, hereinafter "*Schuster.*"

By this Amendment, the independent claims 1, 18, and 19 have been amended to have the duplicate term "the" deleted to provide greater clarity. In addition, claim 18 has been amended to specify that the fillers used are untreated fillers. Support for the claim amendments can be found throughout the specification and the claims as originally filed. No new matter is introduced by these claim amendments.

Mathur '175 is Not a Proper Reference

Mathur '175 is a continuation-in-part of its parent application 09/467,717, which issued as U.S. Patent 6,548,574 on April 15, 2003, hereinafter "*Mathur* '574." The specifications of *Mathur* '175 and *Mathur* '574 are not coextensive, and therefore *Mathur* '175 is only a reference as of its filing date of February 27, 2003, not the filing date of *Mathur* '574.

On page 7 of the Office Action dated August 7, 2009, the Examiner opines that the Rule 1.131 Declaration submitted on May 8, 2009 is unsatisfactory for failing to provide the translation and statement of accuracy required by rule 69(b). Statement of accuracy and translations shown in Exhibit I are submitted herewith pursuant to 37 C.F.R. 1.69(b) as required

by the Examiner. Applicants respectfully request the Rule 1.131 Declaration of May 8, 2009 be considered on its merits.

In view of the above, *Mathur* '175 is not a proper reference. Removal of *Mathur* '175 as a reference is respectfully solicited.

Remarks Directed to Claim Rejections

For the sake of argument, even if *Mathur* '175 could be regarded as a proper reference, Applicants respectfully traverse the rejections of claims 1 - 20 under 35 U.S.C. § 103(a) *Mathur* '175 in view of *Schuster* for at least the following reasons.

Responsive to the Examiner's assertions directed to the independent claim 1 as stated on pages 1-2 of the Office Action, Applicants' comments are provided herein below, in a side-by-side format, as shown in Table I-1.

Table I-1: regarding claim 1

Assertions Stated on Pages 1-2 of the Office Action	Applicants' Comments Responsive Thereto	#
Regarding claim 1, Mathur ('175) discloses a continuous process for preparing HTV organopolysiloxane compositions (see [0016]-[0018]) having a viscosity measured at 25 degrees C of at least 500 Pas (see [0015]), comprising mixing and kneading organopolysiloxanes and fillers (see [0023]) in a first process stage in a kneading cascade having at least two kneading chambers which are arranged in series (see [0023]),	-- *Mathur* '175 ***does not*** teach a kneading cascade having at least two kneading chambers which are arranged in series ***adjacent one another***, as required in claim 1. Paragraph [0023] of *Mathur* '175 teaches two extruders 112 and 114 are disposed ***spaced apart***, as they perform different tasks under varied temperatures. *See* also Figure 2.	1
each containing two kneading tools having parallel axes and capable of being driven in co-rotating directions (see [0023])	-- There is ***no*** express or implicit disclosure of these claimed structural details in paragraph [0023] of *Mathur* '175.	2
at least the first kneading chamber having a feed opening and the last chamber having a discharge opening, to provide a raw organopolysiloxane mixture, and directly	-- As stated above in relation to #1, the Examiner argues *Mathur* '175 at paragraph [0023] teaches a kneading cascade presumably composed of extruders 112, 114; however, now argues that extruder 114 is again a	3

feeding the raw organopolysiloxane mixture from the discharge opening into a reciprocating kneader (114) (see [0008], [0009] and [0036] and claim 2 of Mathur ('175) wherein the raw material mixture is kneaded and degassed.	reciprocating kneader of claim 1. In essence, the Examiner seems to argue that *Mathur* '175 teaches one kneading chamber 114 being both a kneading chamber and a reciprocating kneader, which is clearly contrary to what is required in claim 1.	
The first stage kneading is not exactly as claimed in that the material is not expressly disclosed to pass "traverse" to the axis of the kneading tools.	-- Applicants respectfully agree with the Examiner that *Mathur* '175 fails to teach this claimed limitation.	4
Schuster ('343) discloses a kneading cascade having at least two kneading chambers (2) which are arranged in series adjacent one another, each containing two kneading tools (3) having parallel axes and are capable of being driven in co-rotating or counter rotating directions, said chambers being connected to one another by means of openings (5) through which material passes in a direction transverse to the axes (4) of the kneading tools, at least the first kneading chambers having a feed opening (6) and the last chamber having a discharge opening (7), to provide an organopolysiloxane mixture (see drawing and abstract). It would have been obvious to one of ordinary skill in the art to have substituted the kneading cascade of Schuster ('343) for the first stage of Mathur ('175), because Schuster ('343) explains in col. 5, lines 32-37 that the kneading machine provide the benefit of controlling intensity and residence time.	-- *Schuster* predates *Mathur* '175. *Schuster*'s teaching of using kneading cascade for improving mixing and residence time would be readily available to the inventors of *Mathur '175* at the time of filing of the latter. Notwithstanding *Schuster*'s being readily available, the inventors of *Mathur* '175 chose to use twin screw extruder for the very purpose of forming solid or semisolid silicone with fillers having untreated silanol groups. Throughout its entire disclosure, *Mathur* '175 has no concerns over, and has in fact made no mention of, issues regarding mixing intensity or residence time, otherwise associated with mixing and compounding silicone polymers with fillers having treated silanol groups exemplified in *Schuster*. Rather, the *Mathur* '175 is concerned about forming a dry powdery premix using twin screw mix extruders with rapidly moving blades, a feature that a kneading cascade of *Schuster* would not be able to provide. *See* also paragraphs 5 and 6 of the attached Rule 132 Declaration. Therefore, and contrary to the Examiner's assertions, there exists no reason, suggestion, or motivation to modify *Mathur* '175 in the way suggested by the Examiner. If they would, the inventors of *Mathur* '175 could have used the kneading cascade taught in *Schuster*, which was readily available at the time of filing *Mathur* '175. But the inventors of *Mathur* '175 did not. -- In addition, Applicants have extensively set forth for the record that the references are not properly combinable. *See* for instance pages 3-8 of Applicants' Appeal Brief dated April 23, 2007 and pages 1-5 of Applicants' Reply Brief dated December 12, 2007.	5

Responsive to the Examiner's assertions directed to the independent claim 18 as stated on pages 4-5 of the Office Action, Applicants' comments are provided herein below, in a

side-by-side format, as shown in Table I-2.

Table I-2: regarding claim 18[1]

Assertions Stated on Pages 4-5 of the Office Action	Applicants' Comments Responsive Thereto	#
Regarding claim 18, Mathur ('175) discloses a continuous process for preparing HTV organopolysiloxane compositions (see [0016]-[0018]) having a viscosity measured at 25 degrees C of at least 500 Pa.s (see [0015]), comprising mixing and kneading organopolysiloxanes and fillers (see [0023]) in a first process stage in a kneading cascade having at least two kneading chamber which are arranged in series (see [0023]),	-- Please see Applicants' comments stated in relation to #1 of Table I-1.	6
each containing two kneading tools having parallel axes and capable of being driven in co-rotating directions (see [0023])	-- Please see Applicants' comments stated in relation to #2 of Table I-1.	7
at least the first kneading chamber having a feed opening and the last chamber having a discharge opening, to provide a raw organopolysiloxane mixture, and directly feeding the raw organopolysiloxane mixture from the discharge opening into a reciprocating kneader (114) (see [0008], [0009] and [0036] and claim 2 of Mathur '175) wherein the raw material mixture is kneaded and degassed, wherein the raw mixture is a viscous, homogeneous, cohesive composition prior to entering the reciprocating kneader (see [0023]).	-- Please see Applicants' comments stated in relation to #3 of Table I-1 -- Notably, the cited paragraph [0023] of *Mathur* '175 ***does not*** teach or suggest the claimed limitation that the raw mixture is a viscous, homogeneous, cohesive composition prior to entering the reciprocating kneader.	8
The first stage kneading is not exactly as claimed in that the material is not expressly disclosed to pass "traverse" to the axis of the kneading tools.	-- Please see Applicants' comments stated in relation to #4 of Table I-1.	9
Schuster ('343) discloses a kneading cascade having at least two kneading chambers (2) which are arranged in series adjacent one another, each containing two kneading tools (3) having parallel axes and are capable of being driven in co-rotating or counter rotating directions, said chambers being connected to one another by means of openings (5) through which material passes in a direction transverse to the axes (4) of the kneading tools, at least the first kneading chambers having a feed opening (6) and the last chamber having a discharge opening (7), to provide an organopolysiloxane mixture (see drawing and abstract). It would have been obvious to one of ordinary skill in the art to have substituted the kneading cascade of Schuster ('343) for the first stage of	-- Please see Applicants' comments stated in relation to #5 of Table I-1. -- As stated in paragraph 9 of the attached Rule 132 Declaration, the capacity of the claimed invention adapted for ***using an untreated filler in a kneading cascade*** of a first stage is very surprising and unexpected, particularly in view of the aforementioned teachings of *Mathur* '175 and *Schuster*, wherein *Mathur* '175 teaches mixing silicone premix with untreated fillers requires the use	10

[1] Reasons for rejecting claim 18 provided by the Examiner are substantially similar, if not word-for-word identical, to the reasons provided in relation to claim 1, as stated in the Table I-1.

Mathur ('175), because Schuster ('343) explains in col. 5, lines 32-37 that the kneading machine provide the benefit of controlling intensity and residence time.	of kneaders having rotating cutting blades to provide the requisite sheer force while *Schuster* teaches that a kneading cascade is useful for compounding silicone polymers with treated fillers to provide the requisite mixing intensity and residence time.	

Responsive to the Examiner's assertions directed to the independent claim 19 as stated on pages 5-6 of the Office Action, Applicants' comments are provided herein below, in a side-by-side format, as shown in Table I-2.

Table I-3: regarding claim 19[2]

Assertions Stated on Pages 5-6 of the Office Action	Applicants' Comments Responsive Thereto	#
Regarding claims 19 and 20, Mathur ('175) discloses a continuous process for preparing HTV organopolysiloxane compositions (see [0016]-[0018]) having a viscosity measured at 25 degrees C of at least 500 Pas (see [0015]), comprising mixing and kneading organopolysiloxanes, fillers untreated fillers and at least one of a hydrophobicizing agent or structure improver (see [0020] to [0023]) in a first process stage in a kneading cascade having at least two kneading chambers which are arranged in series (see [0023]),	-- Please see Applicants' comments stated in relation to #1 of Table I-1. -- Notably, claim 19 in the amended form requires the addition of a hydrophobicizing agent, which is in direct contrast to *Mathur* '175's teaching of using a hydrophilicizing agent such as water to render the resultant filler hydrophilic. *See* for instance paragraph [020]. Applicants have previously set forth for the record reasons relative to this claimed element, which are not reproduced herein for brevity. However, please *see* page 7 of Applicants' Reply Brief dated April 23, 2007.	11
each containing two kneading tools having parallel axes and capable of being driven in co-rotating directions (see [0023])	-- Please see Applicants' comments stated in relation to #2 of Table I-1.	12
at least the first kneading chamber having a feed opening and the last chamber having a discharge opening, to provide a raw organopolysiloxane mixture, and directly feeding the raw organopolysiloxane mixture from the discharge opening into a reciprocating kneader (114) (see [0008], [0009] and [0036] and claim 2 of Mathur ('175)	-- Please see Applicants' comments stated in relation to #3 of Table I-1.	13

[2] Reasons for rejecting claim 19 provided by the Examiner are substantially similar, if not word-for-word identical, to the reasons provided in relation to claim 1, as stated in the Illustrative Table I-1.

wherein the raw material mixture is kneaded and degassed.		
The first stage kneading is not exactly as claimed in that the material is not expressly disclosed to pass "traverse" to the axis of the kneading tools.	-- Please see Applicants' comments stated in relation to #4 of Table I-1.	14
Schuster ('343) discloses a kneading cascade having at least two kneading chambers (2) which are arranged in series adjacent one another, each containing two kneading tools (3) having parallel axes and are capable of being driven in co-rotating or counter rotating directions, said chambers being connected to one another by means of openings (5) through which material passes in a direction transverse to the axes (4) of the kneading tools, at least the first kneading chambers having a feed opening (6) and the last chamber having a discharge opening (7), to provide an organopolysiloxane mixture (see drawing and abstract). It would have been obvious to one of ordinary skill in the art to have substituted the kneading cascade of Schuster ('343) for the first stage of Mathur ('175), because Schuster ('343) explains in col. 5, lines 32-37 that the kneading machine provide the benefit of controlling intensity and residence time.	-- Please see Applicants' comments stated in relation to #10 of Table I-2.	15

In view of the remarks stated in the aforementioned illustrative Tables I-1, I-2 and I-3, Applicants respectfully submit that *Mathur* '175 and *Schuster*, alone or in combination, fails to teach one or more claimed features as specified in relation to items #1-#4 of Table I-1, items #6 - #9 of Table I-2, and items #11-#14 of Table I-3. Applicants further submit that *Mathur* '175 and *Schuster* are not properly combinable as specified in relation to items #5 of Table I-1, item #10 of Table I-2, and item #15 of Table I-3.

On page 7 of the Office Action dated August 7, 2009, the Examiner opines that the Rule 1.132 Declaration submitted on May 8, 2009 is unsatisfactory for failing to properly refer to *Mathur* '175. In the Rule 1.132 Declaration, *Mathur* '175 and the parent *Mathur* '574 have been improperly named due to some typographical error. The typographical error has been corrected as indicated herein. Applicants respectfully request the Rule 1.132 Declaration be considered on its merits.

Conclusion

Applicants submit that the claims are now in condition for Allowance, and respectfully request a Notice to that effect. If the Examiner believes that further discussion will advance the prosecution of the Application, the Examiner is highly encouraged to telephone Applicants' attorney at the number given below.

Respectfully submitted,
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